THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.4236 OF 2006

Dated: 03-03-2006

Between

1. Urimiti Baburao and 10 others

...PETITIONERS

AND

The Municipal Corporation,

Visakhapatnam, rep. by the

Commissioner (Special Officer/District Collector)

Visakhapatnam.

...RESPONDENT

ORDER:

This writ petition is filed seeking a Writ of Mandamus to declare the action of the respondent and its officials dated 23-02-2006 at midnight 2 AM in destroying the 68 palmyrah, 5 cashew nut, 5 soap nut trees, 4 tamarind trees, 30 bobble trees and 4 neem trees and damaging 9 thatches houses for the purpose of road widening of the existing Hanumanthavaka to Mudasarilova 100 feet road into 230 feet wide road and attempting to dispossess the petitioners from the land in new survey Nos.13/2, 13/3 B and 22 of old Survey No.41 of Santhapalem, Chinagadili, Visakhapatnam in an extent of Ac.4-03 cents without issuing any notice and without due process of law under the Land Acquisition Act and paying compensation as illegal and arbitrary.

Learned counsel for the petitioners submits that the petitioners are the owners of aforementioned premises and they have been in possession and enjoyment of the same by constructing 9 thatched houses. While so, the respondent – corporation in order to extend the road i.e. 100 feet road into 230 feet wide road leading from Hanumanthavaka to Mudasarilova is attempting to dispossess the petitioners from the land without giving any notice and without paying any compensation. Learned counsel for the petitioners further submits that the petitioners are not at all against the road-widening programme of the respondent and they have no objection for the said programme if their lands are acquired and if proper compensation is paid.

The only grievance of the petitioners is that the respondent without issuing any notices, without paying any compensation for their structures or the lands and without following due process of law,
is attempting to dispossess them from the land for the purpose of road-widening.

The learned counsel for the petitioners further submits that the action of respondent without following the due procedure prescribed under law and without paying any compensation either by way of private negotiations or by way of initiating proceedings under the Land Acquisition Act is utter violation of the principles of natural justice as well as Sections 146 and 147 of the Municipal Corporations Act (for short 'the Act').

This Court disposed of number of writ petitions directing the respondent not to demolish the houses of the private citizens without following due process of law.

Having regard to the facts and circumstances of the case,
this writ petition is disposed of directing the respondent not to demolish the structures or take away any portion of the properties of the petitioners and not to dispossess them without following due process of law either under Section 146 or 147 of the Act or by private negotiations or by initiating the proceedings under the Land Acquisition Act, 1894. No costs.

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V. ESWARAIAH, J

March 3, 2006

Note: Furnish C.C. of the order by 06.03.2006

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DSK